

SENATE BILL 2322

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 2, relative to wages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 2, is amended by adding the following language as a new part:

50-2-301. This part shall be known and may be cited as the "Tennessee Minimum Wage Act."

50-2-302. As used in this part:

- (1) "Commissioner" means the commissioner of labor and workforce development;
- (2) "Department" means the department of labor and workforce development;
- (3) "Employ" means to permit or suffer to work in employment or a gainful occupation;
- (4) "Employee" means a person born or naturalized in the United States and subject to the jurisdiction thereof, or a person legally present in this country, either of whom is employed by an employer;
- (5) "Employer" includes an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons, not involved in interstate commerce acting directly or indirectly in the interest of an employer in relation to an employee;
- (6) "Gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered to the guest, patron,

or customer that the employee reports to the employer for purposes of the federal Insurance Contributions Act (26 U.S.C. §§ 3101-3128); and

(7) "Wages" means compensation paid to an employee in the form of legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; provided, that wages may include the reasonable cost to the employer, as determined by the commissioner, of furnishing meals or lodging to an employee, if furnished by the employer and used by the employee.

50-2-303.

(a) Every employer shall pay each employee wages at an hourly rate not less than the federal minimum wage established pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), as amended, or, alternatively, shall pay each employee wages at an hourly rate not less than the minimum wage established pursuant to subsection (b), whichever rate is greater.

(b) On and after July 1, 2016, the minimum wage shall be no less than fifteen dollars (\$15.00) per hour.

(c)

(1) Notwithstanding subsection (b):

(A) An employer in the hotel, motel, tourist, and restaurant industries shall employ a service or tipped employee at a basic wage rate of no less than four dollars and seventy-four cents (\$4.74) per hour; and

(B) Employees who are compensated by way of gratuities shall be compensated at a basic wage rate no less than six dollars and fifteen cents (\$6.15) per hour. The sum of wages and gratuities received by each person compensated by gratuities shall equal or exceed the minimum wage rate provided in subsection (b).

(2) For the purposes of this subsection (c), a "service or tipped employee" means any employee engaged in an occupation in which the

employee customarily and regularly receives more than thirty dollars (\$30.00) a month in tips.

(d) Notwithstanding subsection (b), an employer shall not pay an employee less than one and one-half ($1\frac{1}{2}$) times the regular wage rate for any work done by the employee in excess of forty (40) hours during a work week.

50-2-304. Every employer subject to this part shall keep a summary of this part and any applicable wage orders and regulations posted in a conspicuous and accessible place in or about the premises of the employer's place of business.

50-2-305.

(a) Any employer who violates the minimum wage requirements of this part shall be liable to the employee or employees affected for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees in any action brought in any court of competent jurisdiction to recover unpaid wages under this part, such judgment shall include, in addition to the unpaid wages adjudged to be due, an amount equal to such wages as damages. The court shall, in addition to any judgment awarded to the employees, require the defendant to pay court costs and reasonable attorney's fees incurred by the employee or employees.

(b) Action to recover damages pursuant to this section must be instituted within three (3) years from the date such wages were due.

50-2-306. In the administration of this part, the commissioner shall cooperate, to the fullest extent consistent with this part, with the administrator of the wage and hour division of the United States department of labor.

50-2-307. Nothing in this part shall interfere with, impede, or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages in excess of the applicable minimum wages under this part.

50-2-308. Employees excluded pursuant to 29 U.S.C. § 213 are exempt from this part to the same extent such employees are exempt under such federal law.

50-2-309. Within existing resources of the department, the commissioner shall promulgate rules to effectuate the purposes of this part that are consistent with the federal Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.). All such rules shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2016, the public welfare requiring it.